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EXAMINER	
TAWFIK, SAMEH	

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte BRENT HILD, WILLIAM BELIAS, and STEVEN NIELSEN

Appeal 2010-000498
Application 10/775,601
Technology Center 3700

Before WILLIAM F. PATE III, MICHAEL W. O'NEILL,
and KEN B. BARRETT, *Administrative Patent Judges*.

O'NEILL, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Brent Hild et al. (Appellants) appeal under 35 U.S.C. § 134 from the Examiner's decision rejecting claims 20-42 and 71-76. Reply Br. 3. Claims 1-19 and 43-70 are cancelled. We have jurisdiction under 35 U.S.C. § 6(b). We REVERSE.

The Invention

The claims on appeal relate to fiber-reinforced thermoplastic film process with the application of forming a bag.

Claim 20, reproduced below, is illustrative of the subject matter on appeal.

> 20. A blown-film process for making a fiber-reinforced bag, comprising:
>
> providing at least one thermoplastic resin;
>
> melting the at least one thermoplastic resin;
>
> extruding the at least one thermoplastic resin through an extension die to form a film bubble;
>
> providing a plurality of pre-cut fibers;
>
> distributing the plurality of pre-cut fibers in a fluidized stream inside of the film bubble;
>
> collapsing the film bubble after distributing the plurality of pre-cut fibers so as to form a fiber-reinforced film, the fiber-reinforced film having a first thermoplastic layer, a second thermoplastic layer, and a plurality of fibers dispersed therebetween;
>
> forming a first and a second body panel from the fiber-reinforced film; and
>
> closing the first and second body panels along two opposing sides and a bottom to form the fiber-reinforced bag.

The Rejections

The following Examiner's rejections are before us for review:

Claims 20-31, 33-41, 71, and 73 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Schrenk (U.S. Pat. No. 3,589,958, iss. Jun. 29, 1971) in view of Chisholm (U.S. Pat. No. 3,765,922, iss. Oct. 16,

1973) and further in view of Wood (U.S. Pat. No. 4,849,040, iss. Jul. 18, 1989).

Claims 32, 42, 72, 74, 75, and 76 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Schrenk in view of Chisholm and further in view of Wood and Laird (U.S. Pat. No. 5,108,777, iss. Apr. 28, 1992).

OPINION

We have carefully reviewed the Examiner's rejection in light of the Appellants' arguments and the Examiner's response. As a result of this review, we conclude that the combined teachings of the prior art fail to render obvious the claimed subject matter. Our reasons follow.

The determinative disputes between the Examiner and the Appellants are directed first to the interpretation of the method step "distributing the plurality of pre-cut fibers in a fluidized stream inside of the film bubble," in particular, "fluidized stream," and then second whether the combined teachings of Schrenk and Chisholm would have rendered obvious the aforementioned claimed subject matter to a person having ordinary skill in the art. App. Br. 9; Ans. 5 and 11; and Reply Br. 6-7.

The Examiner is correct that claims are given their broadest reasonable interpretation. However, there is a limit to the broadest reasonable interpretation that maybe given to a claim term. The limit is the Specification, and as it would be understood by a person having ordinary skill in the art. A review of the Specification reveals that Appellants provided a specific definition for claim term fluidized: "The term 'fluidized' used as defined herein is the random movement of the solid fiber particles

formed by transporting the solid fiber particles that acts like a fluid." Spec. 11, para. [047].

The Examiner appears to interpret "fluidized stream" as the "use and help of air to distribute the fiber around and over the tube." Ans. 11. Since the Examiner found that Schrenk discloses distributing a plurality of fibers inside of the film bubble (Ans. 4), the Examiner submitted that the combined teachings of Schrenk and Chisholm render obvious the claimed "fluidized stream." Ans. 11. However, from the Specification, the term "fluidized stream" has a narrower meaning than the Examiner's interpretation noted above.

When read in light of the Specification, "fluidized stream" denotes such random movement of solid fiber particles such that the transport of the particles through a medium, e.g. air, has the characteristics of a fluid. Thus, when the fiber particles are deposited upon the surface of the film bubble there is essentially no recognizable pattern of distribution of the fiber particles.

Given the broadest reasonable interpretation of "fluidized stream," we conclude the Examiner equating the use and help of air to distribute the fiber around to distributing in a fluidized stream, as recited in the claims, is an interpretation broader than the broadest reasonable interpretation. Accordingly, the Examiner erred in finding that the step of distributing the plurality of pre-cut fibers in a fluidized stream inside the film bubble would have been obvious given only the combined teachings of Schrenk and Chisholm. We note that the Examiner found Schrenk does not teach distribution of fibers in a fluidized stream and thus relied on the teachings of Chisholm for such a teaching. Ans. 5. However, we agree with Appellants

that Chisholm relies on the use of centrifugal force to distribute the extruded filament that is cut by the knives (not shown) and that Chisholm is directed to flocked articles, which by definition, have the fibers generally oriented; and thus, a recognizable pattern of distribution. (Reply Br. 7) As such, the combined teachings of Schrenk and Chisholm fail to render obvious the claimed step of distributing the plurality of pre-cut fibers in a fluidized stream inside of the film bubble.

The Examiner does not rely on Wood or Laird to remedy the aforementioned deficiency with the combined teachings of Schrenk and Chisholm. Accordingly, the Examiner's obviousness rejections are reversed.

DECISION

The Examiner's decision to reject claims 20-31, 33-41, 71, and 73 under 35 U.S.C. § 103(a) as being unpatentable over Schrenk in view of Chisholm and further in view of Wood is reversed.

The Examiner's decision to reject claims 32, 42, 72, 74, 75, and 76 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Schrenk in view of Chisholm and further in view of Wood and Laird is also reversed.

REVERSED

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